

FLATHEAD COUNTY ENCROACHMENT PERMIT

E-\_\_\_\_\_  
Permit No.

\_\_\_\_\_  
(Insert Nature of Permit; i.e. Water, Power, Sewer, Phone, Etc)

1. Name of Applicant: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
If Business or Corporation please provide contact name: \_\_\_\_\_
2. Mailing Address (plus City, State & Zip): \_\_\_\_\_
3. Nature of Permit desired. (Give sufficient detail). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Give description at or near which installations or structures will be installed.
  - a. Provide area map with directions to location, plus a COS map or plat map of property.
  - b. LEGAL: Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_
5. For how long a period is the permit desired: \_\_\_\_\_
6. Permittee will be required to have a Licensed contractor obtain bonding in both names: (Flathead County Road Department "or" applicant), as outlined in Resolution 982E, for assurance of construction repairs, and to pay necessary recording fees, if required.  
Application Fee: \_\_\_\_\_ Check No. \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Name of Surety Company: \_\_\_\_\_  
Type of Surety: \_\_\_\_\_ No. \_\_\_\_\_ Amt. \$ \_\_\_\_\_
7. Reseed: All right-of-way disturbed by the utilization of this encroachment must be reseeded according to the specifications of the Flathead County Weed Dept. Contact the Weed Department for area information and specifications.
8. Remarks: **Trench cuts must be fixed within 48 hours.**  
**Please see #4 on attached permit requirements. Failure to make repairs will result in immediate bond surrender.**  
**SEE ATTACHED SHEETS FOR REQUIREMENTS**
9. **The Road Department is to be notified upon completion of work for scheduling of inspection.**

**INSTRUCTIONS CONCERNING USE OF THIS FORM**

Applicant will complete this form and transmit it to the Flathead County Road Department. This application is for all encroachments on or thru County right-of-way. When applicant has signed both sides of application and application is approved, a copy will be made available to applicant. See reverse side for additional rules and regulations.

PERMITTEE

FLATHEAD COUNTY ROAD DEPT.

BOARD OF COMMISSIONERS

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approve-Post Inspection Date

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

## CONDITIONS OF PERMIT

Subject to the following terms and conditions, the permit applied for upon the reverse side, hereof, is hereby granted:

1. **TERM:** This permit shall be in full force and in effect from the date hereof until revoked as herein provided.
2. **REVOCAION:** This permit may be revoked by the County upon giving 10 days notice to Permittee by ordinary mail, directed to the address shown in the application hereto attached, but the County reserves the right to revoke this permit without giving said notice in the event Permittee breaks any of the conditions or terms set forth herein.
3. **COMMENCEMENT OF WORK:** No work shall be commenced until Permittee notifies the County authorized representatives, as listed on the front of this application, as to the proposed commencement of work.
4. **CHANGES IN HIGHWAY:** If the County changes highway, necessitating changes in structure or installations under this permit, Permittee shall make necessary changes without expense to County.
5. **TRENCHING OR PAVEMENT ALTERATIONS:** Removal of pavement must be preceded by sawing the existing pavement around the area(s) to be removed. Replacement base and subbase materials must be compacted to a minimum of 95% relative density. Replacement of pavement must be accomplished within 48 hours of pavement removal.
6. **COUNTY SAVED HARMLESS FROM CLAIMS:** In accepting this permit, the Permittee, its/his successors or assigns, agree to protect the County and save it harmless from all claims, actions, or damage of any kind and description which may accrue to, or be suffered by, any person, or persons, corporations, or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case of any suit or action brought against the County and arising out of, or by reason of, any of the above causes, the Permittee, its/his successors or assigns, will, upon notice to it /him of the commencement of such action, defend the same at its/his sole cost and expense and satisfy any Judgment which may be rendered against the County in any suit or action.
7. **PROTECTION OF TRAFFIC:** Insofar as the interests of the County and the traveling public are concerned, all work performed under this permit shall be done under the supervision of the County Road Department and its authorized representatives, and he/they shall indicate the traffic control devices, the lighting thereof at night, placing of flagmen and watchmen, the acceptable manner in which traffic is to be handled, and shall specify to Permittee how road surface is to be replaced if it is disturbed during operations, but said supervision shall in no way operate to relieve or discharge Permittee from any of the obligations assumed by acceptance of this permit and especially those set forth under Section 6 hereof.
8. **HIGHWAY DRAINAGE:** If the work done under this permit interferes in any way with the drainage of the County highway affected, Permittee shall, at its/his own expense, make such provisions as the County may direct to take care of said drainage.
9. **RUBBISH AND DEBRIS:** Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and roadway and roadside left in a neat and presentable condition satisfactory to the County.
10. **WORK TO BE SUPERVISED BY COUNTY:** All work contemplated under this permit shall be done under the supervision of and to the satisfaction of the authorized representative of the County, and the County hereby reserves the right to order the change of location or removal of any structure of installation authorized by this permit at any time, said changes or removal to be made at the sole expense of the Permittee.
11. **COUNTY'S RIGHT NOT TO BE INTERFERED WITH:** All such changes, reconstructing, and relocation shall be done by Permittee in such a manner as will cause the least interference with any of the County's work, and the County shall in no way be liable for any damage to the Permittee by reason of any such work by the County, its agents, contractors, or representatives, or by the exercise of any rights by the County upon the highways by the installation or structures placed under this permit.
12. **REMOVAL OF INSTALLATIONS OR STRUCTURES:** Unless waived by the County, upon termination of this permit, the Permittee shall remove the installation or structures contemplated by this permit and restore the premises to the condition existing at the time of entering upon the same under this permit, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
13. **MAINTENANCE AT EXPENSE OF PERMITTEE:** Permittee shall maintain, at its/his sole expense the installations and structures for which this permit is granted, in a condition satisfactory to the County.
14. **COUNTY NOT LIABLE FOR DAMAGE TO INSTALLATIONS:** In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by a contractor working the County or by any County employee engaged in construction, alteration, repair, maintenance, or improvement of the County right-of-way shall be at the sole expense of the Permittee.
15. **COUNTY TO BE REIMBURSED FOR REPAIRING ROADWAY:** Upon being billed therefore, Permittee agrees to promptly reimburse the County for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this permit, including any incurred legal fees.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

The undersigned, the "PERMITTEE" mentioned in the foregoing instrument, hereby accepts this permit, together with all of the terms and conditions set forth therein.

\_\_\_\_\_  
(PERMITTEE)

\_\_\_\_\_  
(PERMITTEE)

## **FOR ENCROACHMENT PERMITS ONLY**

Flathead County Road Depart.  
1249 Willow Glen Drive  
Kalispell, MT 59901

### Requirements for Road Department before Permit Approval

1. Certificate of Survey Map (if possible)
2. Property Address (can be obtained from Plat Room)
3. Area Map
4. Plot encroachment location on map with exact footages from landmark, i.e. other approach, property line, road intersection, fence, etc.
5. Type of encroachment, i.e. water, gas, power sewer, phone, etc.
6. One hundred (\$100) dollar application fee per permit.
7. Sign and date both sides or pages of the application.

## **CONDITIONS FOR APPROVAL**

1. County Inspector may be present during installation.
2. Road Department/County Inspector to be notified 48 hours prior to installation.
3. Contractor must adhere to MUTCD for traffic control.
4. Installation to be along edges of right-of-way unless approved by County Inspector.
5. Contractor to replace surface to original condition.
6. County Inspector may approve backfill.
7. Excavation area and equipment left overnight will have hazard barriers flashing signals as approved by County Inspector.
8. 60" minimum depth for burial under the driving surface.
9. 36" minimum depth for burial at the bottom of the ditch.
10. All crossings of County roads shall be bored unless certain circumstances prevent this from happening. (ie; rocks, no ditch, limited right-of-way, etc)
11. **Only one lane of traffic will be closed at a time.**
12. **Roads will be open to all traffic at the end of each work day.**

## RESOLUTION NO. 982F

WHEREAS, Section 7-14-2101, et seq, M.C.A., provides that the Board of County Commissioners may layout, maintain, control and manage County roads within the County and may in its discretion do whatever is necessary in the best interest of County roads, including providing for the removal of obstructions and encroachments;

WHEREAS, Section 7-14-2101(2)(a), M.C.A., provides that unless the context requires otherwise, the term county road means any public highway opened, established, constructed or maintained by a county;

WHEREAS, Sections 61-1-201 and 61-1-202, M.C.A., define public highway to include the entire width between the boundary lines of every publicly maintained way;

WHEREAS, the safety of the traveling public is being negatively impacted by increased population growth resulting in increased construction of approaches and utility encroachments onto county roads; and

WHEREAS, it is necessary and appropriate to regulate and approve all encroachments on county roads and to assess an appropriate fee for the additional expense to the taxpayers of processing permit applications; and

WHEREAS, the Board approved the Flathead County Road Encroachment Policy on February 27, 1995; and

WHEREAS, the Board passed Resolution 982A on July 24, 1995, and Resolution on 982B on May 28, 1996, and Resolution 982C on November 14, 1996, and Resolution 982D on May 11, 1998, and Resolution 982E on May 13, 2004, now deems it necessary to amend Resolution 982E.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the following encroachment permit fee schedule shall be in effect in Flathead County:

Encroachment Type	Fee
<u>Approach</u>	
<u>Agricultural</u> (Access to fields under agricultural use) Non-refundable application fee.	\$100.00
<u>Driveway</u> (Single family dwelling) Non-refundable application fee.	\$100.00
<u>Shared Driveway</u> (Two lot approach, excluding subdivisions) Non-refundable application fee.	\$150.00
<u>Minor Subdivision</u> (Five or fewer lots for single or multiple family dwellings, including apartment buildings, condos, mobile home parks, etc.) Non-refundable application fee.	\$300.00 per approach- \$30.00/lot



Major Subdivision (Six or more lots for single or multiple family dwellings, including apartment buildings, condos, mobile home parks, etc.) Non-refundable application fee.

\$650.00 per approach- \$30.00/lot

#### Utility

In lieu of the fees listed herein, each utility company named under "Utility Company Exemption" may pay a flat yearly fee in the amount of \$6,500.00 due and payable on July 1 of each year.

#### Ditchline Encroachment

Non-refundable application fee

\$100.00

PLUS

Refundable bond held for two years to insure proper grading and reseeding  
See note.

\$2,500.00 gravel road  
\$5,000.00 paved road

#### Gravel Road Encroachment

Non-refundable application fee

\$100.00

PLUS

Refundable bond held for two years to insure proper grading and reseeding  
See note.

\$2,500.00

#### Paved Road Encroachment

Non-refundable application fee

\$100.00

PLUS

Refundable bond held for two years to insure proper grading and reseeding  
See note.

\$5,000.00

#### Pushing of Utility Beneath Roadway

Non-refundable application fee

\$100.00

PLUS

Refundable bond held for two years to insure proper grading and reseeding  
See note.

\$2,500.00 gravel road  
\$5,000.00 paved road

#### Definition of Encroachment

An encroachment is any activity within the designated road right-of-way, including, but not limited to trenching, boring pushing, placement of poles and repair of broken lines or replacement of power poles where any of the above is required.

These encroachments will be done to County specification sheets which is attached to the permit.

Tree trimming within the right-of-way and repair of guy wires or repairs that do not require trenching, boring, pushing, or other right-of-way disturbance are specifically exempt.

A major project, which extends a utility line down the side of a road with several crossings of the roadway, will require an encroachment permit for each crossing. There may be one permit application; however, there will be a fee for each crossing of the roadway.

In cases of emergency repair, such as during or following a storm, an after-the-fact permit may be applied for covering the incident without penalty.

An encroachment that in the opinion of the County Road Department will be more extensive than a regular vertical cut across a county road as described above, shall require the posting of a bond in the amount of 125% of the estimated cost of repair to the county road.

NOTE - State Registered Contractors \$25,000.00 bond for three years not to exceed ten encroachments in any one year. Bonds to be renewed annually to maintain the three year cycle.

Bonds are returned to permit applicant if the construction is performed to the required standards and is approved and, in the opinion of the County Road Department, performs adequately for a two year time period. Should the repair to the road not be approved or fail within the two year time period, the permit applicant (or landowner for whom the work was performed) may correct the problems at their expense or, the County Road Department may cash the bond and correct the problems utilizing the bond monies.

UTILITY COMPANY EXEMPTION: The following regulated companies providing utility services in Flathead County are exempt from the bonding requirements listed above: AT&T, Bresnan Communications, Flathead Electric Co-operative, Lincoln Electric, Northwestern Energy, CenturyTel. Subcontractors of these entities shall be bonded with Flathead County and shall add Flathead County to their liability insurance as a named insured and shall provide verification thereof prior to the commencement of construction.

#### Unpermitted Encroachments Upon the Right-of-Way

An amount twice the permit fee will be charged for permits issued after the start and/or completion of construction. Unpermitted encroachments will be removed at the discretion of the Flathead County Road Department.

BE IT FURTHER RESOLVED that the effective date of this Resolution is effective on approval.

DATED this 28th day of July, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By /s/Gary D. Hall  
Gary D. Hall, Chairman

By /s/ Robert W. Watne  
Robert W. Watne, Member

By /s/ Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:

Paula Robinson, Clerk

By /s/ Kimberly Moser \_\_\_\_\_  
Kimberly Moser, Deputy



FLATHEAD COUNTY ROAD WORK PERMIT BOND

BOND NO. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_, of the City of \_\_\_\_\_, State of \_\_\_\_\_, as Principal, and \_\_\_\_\_, a Corporation duly licensed to do business in the State of Montana, as Surety, are held and firmly bound unto Flathead County, a political subdivision of the State of Montana, Obligee, in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States, to be paid to the said Obligee, for which payment well and truly to be made we bind ourselves and our legal representative jointly and severally.

THE CONDITION OF THIS BOND IS SUCH, that whereas the Principal has been issued an encroachment permit by Flathead County to do work in a County right-of-way, if the Principal shall faithfully comply with the laws and resolutions pertaining the work performed on Flathead County rights-of-way and the permit issued to the Principal, and return the roadway to its condition preceding the commencement of work by the Principal, and complete all of said work in compliance with Flathead County road standards and to the satisfaction of the Flathead County Road Department, then this obligation shall be void; but in the event that said Principal does not so comply, then Flathead County shall be entitled to receive the full amount of this obligation. This obligation shall remain in full force and effect for a period of two years, commencing on \_\_\_\_\_, \_\_\_\_\_, and ending on \_\_\_\_\_, \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Principal \_\_\_\_\_

Surety \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

By: \_\_\_\_\_

Signature

By: \_\_\_\_\_

Signature

ACKNOWLEDGMENT OF SURETY

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) :ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a notary public in and for said State, personally appeared \_\_\_\_\_, who acknowledged himself to be the aforesaid



officer of \_\_\_\_\_, a corporation, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

### ACKNOWLEDGMENT OF PRINCIPAL

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a notary public in and for said State, personally appeared \_\_\_\_\_, who acknowledged himself to be the aforesaid officer of \_\_\_\_\_, a corporation, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public for the State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

## **ENCROACHMENT PERMIT REQUIREMENTS**

### **THE PERMIT WILL BE GRANTED IF THE FOLLOWING CONDITIONS ARE MET:**

- 1. All brush and trees are to be removed from the County road right-of-way on each side of the encroachment for a distance of 30 feet and a setback to the outside edge of the right-of-way. This will facilitate improved roadway maintenance and safety.**
- 2. A metal pipe/conduit should be installed beneath the road and/or approach to act as a conduit for the buried line. This will allow the removal and/or replacement of utility lines without additional disruption to the roadway.**
- 3. Utility installations (cable, piping, etc.) within the County right-of-way must be buried a minimum depth of 60 inches below the driving surface of the road, or 36 inches below the bottom of the ditch, whichever is greater. (See attachment sheet for details). This will reduce the possibility of damage to the utility installations during routine maintenance. All utility installations or replacements are to be within 5 feet of the outside edge of the County right-of-way. Any deviation request shall be submitted in writing with plans, two weeks prior to the start date for the Road Departments consideration. Utility companies shall be responsible for removal or relocation of any utilities within the County right-of-way. Utility companies shall be liable for any utility damage due to improper installation and improperly installed utilities may be required to reinstall or replace utilities.**
- 4. Trenching/Plowing: A trench box must be used on all County roads to ensure worker safety and minimize trench width. Non-shrink back fill or select material must be used to fill all trenches within the County right-of-way. Where non-shrink back fill material is not used, the trench must be backfilled with select material (not native material, see 4A) and compacted in six and eight inch lifts to 90% of maximum density at the optimum moisture content. The Department requires the utility to provide testing (at utility expense) and furnish the Department the results. (Vibration and/or compaction may be required to fill voids in specific areas.) This requirement will reduce the potential for future settlement of the trench backfill resulting in settled trenches across the roadway. See diagram for details.**
- A. Selected Surfacing: Selected surfacing, including any added binder or blending material, shall meet the requirements of the following table of gradations for the grade specified, as determined by MT-202, Montana Standard Specifications for Road and Bridge Construction, 1987 Edition, 701.02. (Table on page 2.)**

## **TABLE OF GRADATIONS – SELECTED SURFACING**

### **Percentage by Weight Passing Square Mesh Sieves Montana Test Method MT-202**

<b>Sieve</b>	<b>4"</b>	<b>3"</b>	<b>2"</b>	<b>1 1/2"</b>	<b>1"</b>	<b>3/4"</b>
<b><u>Size</u></b>	<b><u>Minus</u></b>	<b><u>Minus</u></b>	<b><u>Minus</u></b>	<b><u>Minus</u></b>	<b><u>Minus</u></b>	<b><u>Minus</u></b>
<b>4"</b>	<b>100</b>					
<b>3"</b>		<b>100</b>				
<b>2"</b>			<b>100</b>			
<b>1 1/2"</b>				<b>100</b>		
<b>1"</b>					<b>100</b>	
<b>3/4"</b>						<b>100</b>
<b>No. 4</b>	<b>25-60</b>	<b>25-60</b>	<b>25-60</b>	<b>25-60</b>	<b>25-60</b>	<b>25-60</b>
<b>No. 200</b>	<b>2-12</b>	<b>2-12</b>	<b>2-12</b>	<b>2-12</b>	<b>2-12</b>	<b>2-12</b>

There shall be added to this table, by implication herewith, a special grade. The requirements for the special grade will be included in the contract by special provisions. The liquid limit for the material passing the No. 40 sieve shall not be in excess of 30, nor shall the plasticity index exceed six, as determined by MT-208.

#### **B. Gravel Roads:**

A six inch layer of compacted crushed gravel must overlay the non-shrink backfill or select material and be graded even with the original road surface.

#### **C. Paved Roads:**

1. Pavement must be saw cut a minimum of 24 inches from each side of the trench prior to trenching. This will reduce the possibility of damage to the adjacent pavement during construction.
2. Pavement must be replaced within 48 hours after the beginning of trenching. Replacement pavement shall consist of hot mix asphalt which matches the original pavement thickness or a minimum thickness of three inches, whichever is greater. A compacted 3" overlay covering the entire width of the road surface and covering the width of the cut plus 15 feet from the edge of the cut in both directions and feathered to blend with existing pavement will be required.

- 3. All encroachments on paved roads with cuts down the length of the roadway will be subject to all previous policy plus the following:**
  - a. Overlays will be made for the entire length of the project plus an additional 15 feet each direction past the ends of the cuts.**
  - b. Overlay widths will be made from the outside edge to the centerline of the pavement or overlay may be required to cover the width of the existing pavement, depending on placement of cuts, current road conditions, and the crown of the road involved. Width of the overlays will be determined solely by the Road Department.**
- 5. Pushing/Boring: Push pit areas within five feet of the shoulders of the road must be filled with non-shrink backfill or select material as per Section 4. The remainder of the push pit must be filled with select material and compacted in six to eight inch lifts to 95% of maximum density at the optimum moisture content. This will reduce damage to relatively new or good paved roads and road shoulders due to settlement. For the exemption of this requirement, proof of extenuating circumstances not allowing pushing must be provided to the Road Department.**
- 6. All areas within the County right-of-way disturbed during construction must be reseeded within 14 days. A four inch layer of topsoil must be spread over all disturbed areas of the right-of-way prior to reseeding. Reseeding will reduce the potential for growth of noxious weeds on the County right-of-way as well as the adjacent private property.**
- 7. Contact the Road Department to schedule a post construction inspection.**



# TRENCH CROSS SECTION

